

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

MICHAEL G. POSTAWKO, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 2:16-CV-04219 NKL
	)	
MISSOURI DEPARTMENT OF	)	
CORRECTIONS, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**PLAINTIFFS' RESPONSE TO MOTION TO STAY**

Defendants are not entitled to a stay. They are not likely to succeed on the merits of their appeal. They will not be irreparably injured without a stay. Any delay in this case will substantially injure Plaintiffs (and the thousands of inmates they represent) who will continue to suffer without treatment. And, because Defendants persist in violating the Constitution and the Americans with Disabilities Act, a stay is not in the public interest.

Nevertheless, “[a] district court may stay a case ‘pending before it by virtue of its inherent power to control the progress of the cause so as to maintain the orderly processes of justice.’” *Ryan v. Gonzales*, 133 S. Ct. 696, 708 (2013) (quoting *Enelow v. N.Y. Life Ins. Co.*, 293 U.S. 379, 382 (1935)). This case will proceed differently if it proceeds as a class action than if it does not. Thus, if it is this Court’s judgment that a stay is appropriate as a matter of docket management, Plaintiffs have no objection to a stay.

If a stay is granted, however, it should stay *all* deadlines in this case, not just discovery. For instance, dispositive motions are due no later than July 26, 2018. ECF No. 180. If discovery does not proceed, then Plaintiffs will be unable to meet this deadline.

Respectfully submitted,

/s/ Anthony E. Rothert

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was filed electronically and served by operation of the CM/ECF system on all counsel of record on October 6, 2017.

/s/ Anthony E. Rothert